

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Newport News Division

UNITED STATES OF AMERICA

v.

4:06CR57

DEJUAN WILLIAM GREEN

Defendant.

REPORT AND RECOMMENDATION
CONCERNING GUILTY PLEA

Defendant, by consent, has appeared before the undersigned pursuant to Rule 11, Federal Rules of Criminal Procedure, and referral from a United States District Judge and has entered a guilty plea to being in possession of a firearm and ammunition as a felon, in violation of 18 U.S.C. § 922(g)(1).

Defendant was represented by appointed counsel, Arenda W. Allen, Esquire. On October 30, 2006, defendant appeared before the Court for the purpose of entering his guilty plea. He was appropriate in appearance, responsive, and competently prepared for the hearing.

Before taking the plea, the Court addressed the issue of defendant's competency. On May 17, 2006, the Court entered an order committing defendant to the Federal Correctional Institution in Butner, North Carolina for a mental evaluation. The Order reflected the concerns of both the prosecution and the defense. Defendant was returned to Tidewater shortly before the guilty plea proceeding. According to the August 24, 2006 report of Tanya L. Cunic, Psy.D., a forensic psychologist, defendant does not suffer "from a severe mental disease or defect" and is "competent to proceed." Cunic further opined that

defendant was cognizant of his behavior at the time of the alleged offense and was accountable.

Defendant answered all questions put to him in clear and concise language. On those occasions when he had a question, defendant consulted with counsel and then promptly answered. Defendant was courteous and appropriate in his behavior at all times and clearly understood the seriousness of his position. At the close of the proceeding, defendant was remanded to custody, pending completion of a presentence report.

Defendant is twenty years of age, attended school through the ninth grade, and speaks English as his native language. There was no evidence that defendant was on drugs, alcohol, or medication which might impair his judgment. He was cooperative throughout the proceeding and consulted with counsel.

Defendant entered the guilty plea without a plea agreement, upon the advice of counsel. The Court is completely satisfied, based upon defendant's responses, that he fully appreciates his position. Furthermore, he acknowledged that the statement of facts prepared in anticipation of his plea accurately reflects the government's evidence, in the event of trial.

After cautioning and examining defendant under oath concerning each of the subjects mentioned in Rule 11, the Court determined that the offense charged is supported by independent facts, establishing each of the essential elements of such offense. Therefore, the Court recommends that the guilty plea be accepted and that defendant be adjudged guilty and have sentence imposed accordingly.

Failure to file written objections to this report and recommendation within ten days from the date of its service shall bar an aggrieved party from attacking such report and recommendation before the assigned United States District Judge. 28 U.S.C. § 636(b) (1) (B).

Norfolk, Virginia

November 2, 2006

/s/
James E. Bradberry
United States Magistrate Judge

Clerk's Mailing Certificate

A copy of the foregoing Report was mailed this date to each of the following:

Arenda W. Allen, Esquire
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Norfolk, VA 23510

Jessica Norris, Esquire
Assistant United States Attorney
United States Attorney's Office
101 West Main Street, Suite 8000
Norfolk, VA 23510

Fernando Galindo, Acting Clerk

By _____
Deputy Clerk

_____, 2006